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7  
8 **BEFORE THE**  
**BOARD OF REGISTERED NURSING**  
9 **DEPARTMENT OF CONSUMER AFFAIRS**  
**STATE OF CALIFORNIA**

10 In the Matter of the Accusation Against:

Case No. **2010-601**

11 **CLAUDIA M. ROCHE**  
12 **A.K.A. Claudia Murray,**  
13 **A.K.A. Claudia Lyon,**  
14 **A.K.A. Claudia M. Mills**  
1111 14th Street, #18  
Santa Rosa, CA 95404

**ACCUSATION**

15 **Registered Nursing license No. 418796**

16 Respondent.

17  
18 Complainant alleges:

19 **PARTIES**

20 1. Louise R. Bailey, M.Ed., RN (Complainant) brings this Accusation solely in her  
21 official capacity as the Interim Executive Officer of the Board of Registered Nursing, Department  
22 of Consumer Affairs.

23 2. On or about August 31, 1987, the Board of Registered Nursing issued Registered  
24 Nursing license Number 418796 to Claudia M. Roche (Respondent). The Registered Nursing  
25 license was in full force and effect at all times relevant to the charges brought herein and will  
26 expire on August 31, 2011, unless renewed.

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JURISDICTION

3. This Accusation is brought before the Board of Registered Nursing (Board), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

4. Section 2750 of the Business and Professions Code ("Code") provides, in pertinent part, that the Board may discipline any licensee, including a licensee holding a temporary or an inactive license, for any reason provided in Article 3 (commencing with section 2750) of the Nursing Practice Act.

5. Section 2761 of the Code states:

"The board may take disciplinary action against a certified or licensed nurse or deny an application for a certificate or license for any of the following:

"(a) Unprofessional conduct, which includes, but is not limited to, the following:

...

"(f) Conviction of a felony or of any offense substantially related to the qualifications, functions, and duties of a registered nurse, in which event the record of the conviction shall be conclusive evidence thereof.

..."

6. Section 2762 of the Code states:

"In addition to other acts constituting unprofessional conduct within the meaning of this chapter [the Nursing Practice Act], it is unprofessional conduct for a person licensed under this chapter to do any of the following:

"(a) Obtain or possess in violation of law, or prescribe, or except as directed by a licensed physician and surgeon, dentist, or podiatrist administer to himself or herself, or furnish or administer to another, any controlled substance as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code or any dangerous drug or dangerous device as defined in Section 4022.

"(b) Use any controlled substance as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code, or any dangerous drug or dangerous device as defined in

1 Section 4022, or alcoholic beverages, to an extent or in a manner dangerous or injurious to  
2 himself or herself, any other person, or the public or to the extent that such use impairs his or her  
3 ability to conduct with safety to the public the practice authorized by his or her license.

4 "(c) Be convicted of a criminal offense involving the prescription, consumption, or  
5 self-administration of any of the substances described in subdivisions (a) and (b) of this section,  
6 or the possession of, or falsification of a record pertaining to, the substances described in  
7 subdivision (a) of this section, in which event the record of the conviction is conclusive evidence  
8 thereof.

9 "(d) Be committed or confined by a court of competent jurisdiction for intemperate use of  
10 or addiction to the use of any of the substances described in subdivisions (a) and (b) of this  
11 section, in which event the court order of commitment or confinement is prima facie evidence of  
12 such commitment or confinement.

13 "(e) Falsify, or make grossly incorrect, grossly inconsistent, or unintelligible entries in any  
14 hospital, patient, or other record pertaining to the substances described in subdivision (a) of this  
15 section."

16 7. Section 490 of the Code provides, in pertinent part, that a board may suspend or  
17 revoke a license on the ground that the licensee has been convicted of a crime substantially  
18 related to the qualifications, functions, or duties of the business or profession for which the  
19 license was issued.

20 8. Section 2764 of the Code provides, in pertinent part, that the expiration of a license  
21 shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the  
22 licensee or to render a decision imposing discipline on the license.

23 9. Section 118, subdivision (b), of the Code provides that the expiration of a license  
24 shall not deprive the Board of jurisdiction to proceed with a disciplinary action during the period  
25 within which the license may be renewed, restored, reissued or reinstated.

26 10. Section 125.3 of the Code provides, in pertinent part, that the Board may request the  
27 administrative law judge to direct a licensee found to have committed a violation or violations of  
28

1 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and  
2 enforcement of the case.

3 FIRST CAUSE FOR DISCIPLINE

4 (CRIMINAL CONVICTION)

5 11. Respondent is subject to disciplinary action under sections 2761(f), 2762(c), and/or  
6 490 in that on or about July 13, 2006, in a criminal proceeding entitled *The People of the State of*  
7 *California v. Claudia Lyon Roche* in Sonoma County Superior Court, Case Number SCR-475271,  
8 Respondent was convicted by her plea of no contest of violating Vehicle Code section 23103.5  
9 (acceptance of guilty or nolo contendere plea to violation of § 23103 in place of charge for  
10 violation of § 23152 – driving while under the influence) with two prior convictions for driving  
11 under the influence. Respondent was sentenced to probation for two years, and ordered to pay  
12 fines in the amount of \$600.00. The circumstances of the conviction are that on or about August  
13 29, 2005, Respondent was arrested for driving under the influence of controlled substances after  
14 she was observed to be weaving and swerving on Petaluma Blvd. in Petaluma, California.  
15 Respondent was unable to pass field sobriety tests, and admitted to the arresting officer that she  
16 had taken Vicodin. Respondent's blood tested positive for opiates.

17 SECOND CAUSE FOR DISCIPLINE

18 (USE OF CONTROLLED SUBSTANCES)

19 12. Respondent is subject to disciplinary action under sections 2761(a) and 2762(b) in  
20 that on or about August 29, 2005, Respondent was arrested for driving under the influence of  
21 controlled substances after she was observed to be weaving and swerving on Petaluma Blvd. in  
22 Petaluma, California. Respondent was unable to pass field sobriety tests, and admitted to the  
23 arresting officer that she had taken Vicodin. Respondent's blood tested positive for opiates.

24 DISCIPLINE CONSIDERATIONS

25 13. To determine the degree of discipline, if any, to be imposed on Respondent,  
26 Complainant alleges that on or about March 3, 2002, in a prior disciplinary action entitled *In the*  
27 *Matter of the Accusation Against Claudia M. Mills Roche* before the Board of Registered  
28 Nursing, in Case Number 2001-109, Respondent's license was revoked, the revocation was

1 stayed, and Respondent's license was placed on probation for three years on certain terms and  
2 conditions as a result of Respondent's illegal possession of cocaine and imprudent use of alcohol.  
3 That decision is now final and is incorporated by reference as if fully set forth.

4  
5 PRAYER

6 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,  
7 and that following the hearing, the Board of Registered Nursing issue a decision:

8 1. Revoking or suspending Registered Nursing license Number 418796, issued to  
9 Claudia M. Roche.

10 2. Ordering Claudia M. Roche to pay the Board of Registered Nursing the reasonable  
11 costs of the investigation and enforcement of this case, pursuant to Business and Professions  
12 Code section 125.3;

13 3. Taking such other and further action as deemed necessary and proper.  
14  
15

16 DATED: 5/25/10

*Louise R. Bailey*  
17 LOUISE R. BAILEY, M.ED., RN  
18 Interim Executive Officer  
19 Board of Registered Nursing  
20 Department of Consumer Affairs  
21 State of California  
22 Complainant  
23  
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26  
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SF2010200604

BEFORE THE  
BOARD OF REGISTERED NURSING  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

CLAUDIA M. MILLS ROCHE  
720 Petaluma Boulevard South, No. 52  
Petaluma, CA 94952

Registered Nurse License No. 418796

Respondent.

Case No. 2001-109

OAH No. N 2000120235

DECISION

The attached Proposed Decision of the Administrative Law Judge is hereby  
adopted by the Board of Registered Nursing as its Decision in the above-entitled matter.

This Decision shall become effective on March 3rd, 2002.

IT IS SO ORDERED February 1st, 2002.

*Sandra R. Erickson*

SANDRA ERICKSON, CRNA  
PRESIDENT  
BOARD OF REGISTERED NURSING  
Department of Consumer Affairs  
State of California

BEFORE THE  
BOARD OF REGISTERED NURSING  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

CLAUDIA M. MILLS ROCHE  
720 Petaluma Boulevard South, No. 52  
Petaluma, CA 94952

Registered Nurse License No. 418796

Respondent.

Case No. 2001-109

OAH No. N 2000120235

**PROPOSED DECISION**

This matter was heard before Robert R. Coffman, Administrative Law Judge, Office of Administrative Hearings, State of California, in Oakland, California, on November 5, 2001.

Paul Everett Carreras, Attorney at Law, represented the respondent.

Maretta D. Ward, Deputy Attorney General, represented the complainant.

**FACTUAL FINDINGS**

1. Ruth Ann Terry made the accusation in her official capacity as the Executive Officer of the Board of Registered Nursing of the State of California.
2. On or about August 31, 1987, the Board of Registered Nursing (Board) issued Registered Nurse License Number 418796 to Claudia M. Mills Roche (respondent). The license was in full force and effect at all times relevant herein and will expire on August 31, 2003, unless renewed.
3. On or about February 9, 1997, respondent illegally possessed cocaine, a controlled substance, for her personal use.
4. On or about February 9, 1997, respondent was driving a vehicle while under the influence of an alcoholic beverage, in violation of section 23152 of the Vehicle Code. As

a result of such conduct on January 21, 1998, in the Municipal Court, County of Marin, State of California, respondent was convicted of violating section 23152 of the Vehicle Code.

5. On the section 23152 conviction respondent was sentenced on February 13, 1998, to two years probation on conditions, including 45 days in the county jail, complete a drinking driver program, attend Alcoholic Anonymous or Narcotic Anonymous meetings, participate in counseling, and pay a fine of \$1,845.

6. On October 17, 1997, in the Municipal Court, County of Marin, State of California, respondent pleaded guilty of violating section 11350(a) of the Health and Safety Code (possession of a controlled substance), and on the same date was placed on a two year diversion program and ordered to complete 40 hours of community service by February 17, 1998. On November 9, 1999, diversion was terminated and the matter dismissed.

7. The facts and circumstances surrounding the matters specified in Findings 3 through 6 are that on February 7, 1997, in Fairfax, California, respondent was stopped by police officers after they observed her driving in an erratic manner. Respondent was arrested for driving under the influence. The passenger in respondent's vehicle was in possession of approximately 2.4 grams of cocaine. He was arrested on a Health and Safety section 11350 charge. On February 20, 1997, a complaint was filed in the Municipal Court charging respondent with driving under the influence. On February 7 respondent was not arrested for possession of cocaine, but on August 20, 1997, a complaint was filed in the Municipal Court charging her with having illegally possessed cocaine on February 7, 1997.

In her May 19, 1999, declaration under penalty of perjury, provided to the Board, respondent stated that the passenger in her vehicle on February 7 had 2.4 grams of cocaine in his possession and that she had purchased one gram of this amount for herself and her boyfriend.

8. (a) For several years during the 1990's respondent drank alcoholic beverages to excess and for at least part of that time she was also using cocaine. In July 1995 she was convicted of another driving under the influence offense in Marin County.

(b) Respondent experienced considerable marital stress until she left her husband in May 1999. Her former husband, a heavy drinker and drug abuser, physically abused her during their marriage. Her marital difficulties contributed to her drug abuse.

(c) Respondent has successfully completed her two year probation and her two year diversion, including an 18 month drinking driver program and a 20 hour drug treatment program. She also attended three Alcoholic Anonymous meetings per week.

(d) Respondent currently attends two Alcoholic Anonymous meetings per week. However, she admits to having occasionally consumed alcoholic beverages, most recently four or five months ago.



(e) Respondent has been a registered nurse for 14 years, employed most of that time in various California health care facilities.

f) Respondent has been employed by London House, a Santa Rosa health care facility, for approximately one month. Her employer is aware of this disciplinary proceeding before the Board.

9. The Board's reasonable costs of enforcement and prosecution of this matter are in the amount of \$3,706.

### LEGAL CONCLUSIONS

1. Respondent successfully completed a court ordered diversion (deferred entry of judgment) program under section 1000.4 of the Penal Code, which provides in part that upon the successful completion of such a program the underlying arrest shall be deemed to have never occurred, and that a record pertaining to the arrest shall not, without the defendant's consent, be used in any way that could result in the denial of any employment, benefit or license.

In *B.W. v. Board of Medical Quality Assurance* (1985) 169 Cal.App.3d 219, the court stated the protections of section 1000.4 should be extended to licensees in license revocation proceedings. In that case the court prohibited the licensing Board from using the licensee's arrest record as the sole source of information to initiate disciplinary proceedings against him, unless he consents to such use.

While there are several questions whether the prohibitions or protections contained in section 1000.4 are applicable to the facts in this matter, i.e., issues re consent, waiver, the relationship between the cocaine possession and the records of the drunk driving arrest, these issues need not be resolved in this proceeding.

Section 492 of the Code provides that successful completion of a diversion program shall not prohibit a healing arts board from taking disciplinary action against a licensee for "professional misconduct," notwithstanding that evidence of the misconduct may be recorded in a record pertaining to an arrest. The Board of Registered Nursing is a healing arts agency. Possession of cocaine is professional misconduct under section 2762 of the Code, authorizing disciplinary action against a registered nurse's license. Under section 492 of the Code the Board in this matter is not precluded from using any information in respondent's arrest record to initiate disciplinary proceedings against her, or from using information in her arrest record to develop additional information that leads to filing disciplinary charges.

2. Cause was established for discipline under section 2762(a) of the Business and Professions Code (Code) under the facts set forth in Finding 3.

3. Cause was established for discipline under section 2762(b) of the Code under the facts set forth in Findings 3, 4 and 8 (a).

4. The Board is entitled to its reasonable costs, as specified in Finding 9, under section 125.3 of the Code.

5. Respondent has struggled with a drinking problem for several years. She is making considerable progress in her efforts to overcome this problem. Because she has made substantial progress toward rehabilitation and continues to do so, it would not be against the public interest to allow her to retain her RN license, but only under appropriate terms and conditions.

#### ORDER

Respondent's Registered Nurse license number 418796 is revoked, provided, however, the order of revocation is stayed and respondent is placed on probation for three years on the following terms and conditions:

- (1) **OBEY ALL LAWS** - Respondent shall obey all federal, state and local laws. A full and detailed account of any and all violations of law shall be reported by the respondent to the Board in writing within seventy-two (72) hours of occurrence. To permit monitoring of compliance with this term, respondent shall submit completed fingerprint cards and fingerprint fees within 45 days of the effective date of the decision, unless previously submitted as part of the licensure application process. Respondent shall submit a recent 2" x 2" photograph of herself within 45 days of the effective date of the final decision.
- (2) **COMPLY WITH PROBATION PROGRAM** - Respondent shall fully comply with the terms and conditions of the Probation Program established by the Board and cooperate with representatives of the Board in its monitoring and investigation of the respondent's compliance with the Probation Program. Respondent shall inform the Board in writing within no more than 15 days of any address change and shall at all times maintain an active, current license status with the Board, including during any period of suspension.
- (3) **REPORT IN PERSON** - Respondent, during the period of probation, shall appear in person at interviews/ meetings as directed by the Board or its designated representatives.
- (4) **RESIDENCY OR PRACTICE OUTSIDE OF STATE** - Periods of residency or practice as a registered nurse outside of California will not apply to the reduction of this probationary term. The respondent must provide written notice to the Board within 15 days of any change of residency or practice outside the state.

- (5) **SUBMIT WRITTEN REPORTS** - Respondent, during the period of probation, shall submit or cause to be submitted such written reports/declarations and verification of actions under penalty of perjury, as required by the Board. These reports/declarations shall contain statements relative to respondent's compliance with all the terms and conditions of the Board's Probation Program. Respondent shall immediately execute all release of information forms as may be required by the Board or its representatives.

**PROVIDE DECISION**

Respondent shall provide a copy of this decision to the nursing regulatory agency in every state and territory in which she has a registered nurse license.

- (6) **FUNCTION AS A REGISTERED NURSE** - Respondent, during the period of probation, shall engage in the practice of registered nursing in California for a minimum of 24 hours per week for 6 consecutive months or as determined by the Board.

For purposes of compliance with the section, "engage in the practice of registered nursing" may include, when approved by the Board, volunteer work as a registered nurse, or work in any non-direct patient care position that requires licensure as a registered nurse.

The Board may require that advanced practice nurses engage in advanced practice nursing for a minimum of 24 hours per week for 6 consecutive months or as determined by the Board.

If respondent has not complied with this condition during the probationary term, and the respondent has presented sufficient documentation of her good faith efforts to comply with this condition, and if no other conditions have been violated, the Board, in its discretion, may grant an extension of the respondent's probation period up to one year without further hearing in order to comply with this condition.

- (7) **EMPLOYMENT APPROVAL AND REPORTING REQUIREMENTS** - Respondent shall obtain prior approval from the Board before commencing any employment, paid or voluntary, as a registered nurse. Respondent shall cause to be submitted to the Board all performance evaluations and other employment related reports as a registered nurse upon request of the Board.

Respondent shall provide a copy of this decision to her employer and immediate supervisor prior to commencement of any nursing or other health care related employment.

Respondent shall notify the Board in writing within seventy-two (72) hours after she obtains any nursing or other health care related employment, when such employment is not as a registered nurse. Respondent shall notify the Board in writing within seventy-two (72) hours after she is terminated from any registered nursing, other nursing, or other health care related employment with a full explanation of the circumstances surrounding the termination.

- (8) **SUPERVISION** - Respondent shall obtain prior approval from the Board regarding respondent's level of supervision and/or collaboration before commencing any employment as a registered nurse.

Respondent shall practice only under the direct supervision of a registered nurse in good standing (no current discipline) with the Board of Registered Nursing, unless alternative methods of supervision and/or collaboration (e.g., with an advanced practice nurse or physician) are approved.

Respondent's level of supervision and/or collaboration may include, but is not limited to the following:

- (a) Maximum - The individual providing supervision and/or collaboration is present in the patient care area or in any other work setting at all times.
  - (b) Moderate - The individual providing supervision and/or collaboration is in the patient care unit or in any other work setting at least half the hours respondent works.
  - (c) Minimum - The individual providing supervision and/or collaboration has person-to-person communication with respondent at least twice during each shift worked.
  - (d) Home Health Care - If respondent is approved to work in the home health care setting, the individual providing supervision and/or collaboration shall have person-to-person communication with respondent as required by the Board each work day. Respondent shall maintain telephone or other telecommunication contact with the individual providing supervision and/or collaboration as required by the Board during each work day. The individual providing supervision and/or collaboration shall conduct, as required by the Board, periodic, on-site visits to patients' homes visited by the respondent with or without respondent present.
- (9) **EMPLOYMENT LIMITATIONS** - Respondent shall not work for a nurse's registry, in any private duty position as a registered nurse, a temporary nurse placement agency, or for an in-house nursing pool.

Respondent shall not work for a licensed home health agency as a visiting nurse unless the registered nursing supervision and other protections for home visits have been approved by the Board. Respondent shall not work in any other registered nursing occupation where home visits are required.

Respondent shall not work in any health care setting as a supervisor of registered nurses. The Board may additionally restrict respondent from supervising licensed vocational nurses and/or unlicensed assistive personnel on a case-by-case basis.

Respondent shall not work as a faculty member in an approved school of nursing or as an instructor in a Board approved continuing education program.

Respondent shall work only on a regularly assigned, identified and predetermined worksite(s) and shall not work in a float capacity.

If the respondent is working or intends to work in excess of 40 hours per week, the Board may request documentation to determine whether there should be restrictions on the hours of work.

- (10) **COMPLETE A NURSING COURSE(S)** - Respondent, at her own expense, shall enroll and successfully complete a course(s) relevant to the practice of registered nursing no later than six months prior to the end of her probationary term.

Respondent shall obtain prior approval from the Board before enrolling in the course(s). Respondent shall submit to the Board the original transcripts or certificates of completion for the above required course(s). The Board shall return the original documents to respondent after photocopying them for its records.

- (11) **COST RECOVERY** - Respondent shall pay to the Board costs associated with its investigation and enforcement pursuant to Business and Professions Code section 125.3 in the amount of \$3,706. Respondent shall be permitted to pay these costs in a payment plan approved by the Board, with payments to be completed no later than three months prior to the end of the probation term.

- (12) **VIOLATION OF PROBATION** - If respondent violates the conditions of her probation, the Board after giving the respondent notice and an opportunity to be heard, may set aside the stay order and impose the stayed discipline of revocation of the respondent's license.

If during the period of probation, an accusation or petition to revoke probation has been filed against respondent's license or the Attorney General's Office has been requested to prepare an accusation or petition to revoke probation against

the respondent's license, the probationary period shall automatically be extended and shall not expire until the accusation or petition has been acted upon by the Board. Upon successful completion of probation, the respondent's license will be fully restored.

- (13) **PARTICIPATE IN TREATMENT/REHABILITATION PROGRAM FOR CHEMICAL DEPENDENCE** - Respondent, at her expense, shall successfully complete during the probationary period or shall have successfully completed prior to commencement of probation a Board-approved treatment/rehabilitation program of at least six months. As required, reports shall be submitted by the program on forms provided by the Board. If respondent has not completed a Board-approved treatment/rehabilitation program prior to commencement of probation, respondent, within 45 days from the effective date of the decision, shall be enrolled in a program. If a program is not successfully completed within the first nine months of probation, the Board shall consider respondent in violation of probation.

Based on Probation Program recommendation, each week respondent shall be required to attend at least one, but no more than five 12-step recovery meetings or equivalent (e.g., Narcotics Anonymous, Alcoholics Anonymous, etc.) and a nurse support group as approved and directed by the Board. If a nurse support group is not available, an additional 12-step meeting or equivalent shall be added. Respondent shall submit dated and signed documentation confirming such attendance to the Board during the entire period of probation. Respondent shall continue with the recovery plan recommended by the treatment/rehabilitation program or a licensed mental health examiner and/or other ongoing recovery groups.

- (14) **ABSTAIN FROM USE OF PSYCHOTROPIC (MOOD-ALTERING) DRUGS** - Respondent shall completely abstain from the possession, injection or consumption by any route of all psychotropic (mood altering) drugs, including alcohol, except when the same are ordered by a health care professional legally authorized to do so and are part of documented medical treatment. Respondent shall have sent to the Board, in writing and within fourteen (14) days, by the prescribing physician or dentist, a report identifying the medication, dosage, the date the medication was prescribed, the respondent's prognosis, the date the medication will no longer be required, and the effect on the recovery plan, if appropriate.

Respondent shall identify for the Board a single physician, nurse practitioner or physician assistant who shall be aware of respondent's history of substance abuse and will coordinate and monitor any prescriptions for respondent for dangerous drugs, controlled substances or mood-altering drugs. The coordinating physician, nurse practitioner, or physician assistant shall report to the Board on a quarterly basis respondent's compliance with this condition. If any

substances considered addictive have been prescribed, the report shall identify a program for the time limited use of any such substances.

The Board may require the single coordinating physician, nurse practitioner, or physician assistant to be a specialist in addictive medicine, or to consult with a specialist in addictive medicine.


- (15) **SUBMIT TO TESTS AND SAMPLES** - Respondent, at her expense, shall participate in a random, biological fluid testing or a drug screening program which the Board approves. The length of time and frequency will be subject to approval by the Board. The respondent is responsible for keeping the Board informed of respondent's current telephone number at all times. Respondent shall also ensure that messages may be left at the telephone number when she is not available and ensure that reports are submitted directly by the testing agency to the Board, as directed. Any confirmed positive finding shall be reported immediately to the Board by the program and the respondent shall be considered in violation of probation.

In addition, respondent, at any time during the period of probation, shall fully cooperate with the Board or any of its representatives, and shall, when requested, submit to such tests and samples as the Board or its representatives may require for the detection of alcohol, narcotics, hypnotics, dangerous drugs, or other controlled substances.

If respondent has a positive drug screen for any substance not legally authorized and not reported to the coordinating physician, nurse practitioner, or physician assistant, and the Board files a petition to revoke probation or an accusation, the Board may suspend respondent from practice pending the final decision on the petition to revoke probation or the accusation.

- (16) Each term and condition of probation contained herein is a separate and distinct term and condition. If any term and condition of this Order, or any application thereof, is declared unenforceable in whole, in part, or to any extent, the remainder of this Order, and all other applications thereof, shall not be affected. Each term and condition of this Order shall separately be valid and enforceable to the fullest extent permitted by law.

DATED: November 9, 2006.

  
\_\_\_\_\_  
ROBERT R. COFFMAN  
Administrative Law Judge  
Office of Administrative Hearings

1 BILL LOCKYER, Attorney General  
of the State of California  
2 DAVID CARR, State Bar No. 131672  
Deputy Attorney General  
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6 Attorneys for Complainant

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9 **BEFORE THE**  
**BOARD OF REGISTERED NURSING**  
**DEPARTMENT OF CONSUMER AFFAIRS**  
10 **STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

Case No. 2001-109

12 CLAUDIA M. MILLS (ROCHE)  
13 720 Petaluma Blvd. South, No. 52  
Petaluma CA 94952

**A C C U S A T I O N**

14 Registered Nurse No. 418796

15 Respondent

16  
17  
18 Complainant alleges:

19 PARTIES

- 20 1. Ruth Ann Terry ("Complainant") brings this accusation solely in her  
21 official capacity as the Executive Officer of the Board of Registered Nursing.  
22 2. On or about August 31, 1987, the Board of Registered Nursing ("the  
23 Board") issued Registered Nurse Number 418796 to Claudia M. Mills Roche ("Respondent").  
24 The Registered Nurse license was in full force and effect at all times relevant to the charges  
25 brought herein and will expire on August 31, 2001, unless renewed.

26  
27 JURISDICTION

- 28 3. This Accusation is brought before the Board under the authority of the



1 following sections of the Business and Professions Code ("Code").

2 4. Section 2750 of the Code states:

3 Every certificate holder or licensee, including licensees holding temporary  
4 licenses, or licensees holding licenses placed in an inactive status, may be disciplined as  
5 provided in this article. As used in this article, "license" includes certificate, registration,  
6 or any other authorization to engage in practice regulated by this chapter. The  
7 proceedings under this article shall be conducted in accordance with Chapter 5  
8 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government  
9 Code, and the board shall have all the powers granted therein.

10 5. Section 2762 of the Code states:

11 In addition to other acts constituting unprofessional conduct within the meaning  
12 of this chapter it is unprofessional conduct for a person licensed under this chapter to do  
13 any of the following:

14 (a) Obtain or possess in violation of law, or prescribe, or except as directed by a  
15 licensed physician and surgeon, dentist, or podiatrist administer to himself or herself, or  
16 furnish or administer to another, any controlled substance as defined in Division 10  
17 (commencing with Section 11000) of the Health and Safety Code or any dangerous drug  
18 or dangerous device as defined in Section 4022.

19 (b) Use any controlled substance as defined in Division 10 (commencing with  
20 Section 11000) of the Health and Safety Code, or any dangerous drug or dangerous  
21 device as defined in Section 4022, or alcoholic beverages, to an extent or in a manner  
22 dangerous or injurious to himself or herself, any other person, or the public or to the  
23 extent that such use impairs his or her ability to conduct with safety to the public the  
24 practice authorized by his or her license.

25 (c) Be convicted of a criminal offense involving the prescription, consumption, or  
26 self-administration of any of the substances described in subdivisions (a) and (b) of this  
27 section, or the possession of, or falsification of a record pertaining to, the substances  
28 described in subdivision (a) of this section, in which event the record of the conviction is

1 conclusive evidence thereof.

2 (d) Be committed or confined by a court of competent jurisdiction for intemperate  
3 use of or addiction to the use of any of the substances described in subdivisions (a) and  
4 (b) of this section, in which event the court order of commitment or confinement is prima  
5 facie evidence of such commitment or confinement.

6 (e) Falsify, or make grossly incorrect, grossly inconsistent, or unintelligible  
7 entries in any hospital, patient, or other record pertaining to the substances described in  
8 subdivision (a) of this section.

9 6. Section 125.3 of the Code states, in pertinent part, that a Board may  
10 request the administrative law judge to direct a licensee found to have committed a violation or  
11 violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation  
12 and enforcement of the case.

13 7. Section 490 of the Code states:

14 A board may suspend or revoke a license on the ground that the licensee has been  
15 convicted of a crime, if the crime is substantially related to the qualifications, functions, or duties  
16 of the business or profession for which the license was issued. A conviction within the meaning  
17 of this section means a plea or verdict of guilty or a conviction following a plea of nolo  
18 contendere. Any action which a board is permitted to take following the establishment of a  
19 conviction may be taken when the time for appeal has elapsed, or the judgment of conviction has  
20 been affirmed on appeal, or when an order granting probation is made suspending the imposition  
21 of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the  
22 Penal Code.

23 8. Section 492 of the Code states:

24 A board may take disciplinary action against any healing arts licensee for unprofessional  
25 conduct even if such conduct resulted in referral to any diversion program established by the  
26 Penal Code and subsequent successful completion of such diversion program.

27 ///

28 ///

1 FIRST CAUSE FOR DISCIPLINE

2 (Illegal Possession of Controlled Substance)

3 8. Respondent is subject to disciplinary action under section 2762(a) in that  
4 she illegally possessed a controlled substance. The circumstances are as follows:

5 a. On or about February 9, 1997 illegally possessed cocaine for her  
6 personal use. Respondent was arrested on February 9, 1997 for violation of Health & Safety  
7 Code section 11350(a), Possession of a Controlled Substance, a felony.

8  
9 SECOND CAUSE FOR DISCIPLINE

10 (Imprudent Use of Alcohol)

11 9. Respondent is subject to disciplinary action under section 2762(b) in that  
12 she used alcoholic beverages to an extent or in a manner dangerous to herself and/or the public.  
13 The circumstances are as follows:

14 a. On or about February 9, 1997 Respondent was arrested for  
15 violation of Vehicle Code section 23152, Driving Under the Influence (alcohol). On or about  
16 January 21, 1998 Respondent was convicted in Marin County Superior Court, Case No.  
17 CR094883A, of violation of section 23152.

18 DISCIPLINE CONSIDERATIONS

19 10. To determine the degree of discipline, if any, to be imposed on  
20 Respondent, Complainant alleges that on or about July 28, 1995, in a prior criminal proceeding  
21 entitled *People v. Claudia L. Mills* in Marin Superior Court, Respondent was convicted of  
22 violating Vehicle Code section 23152 (DUI), a misdemeanor.

23  
24 PRAYER

25 WHEREFORE, Complainant requests that a hearing be held on the matters herein  
26 alleged, and that following the hearing, the Board of Registered Nursing issue a decision:

27 1. Revoking or suspending Registered Nurse Number 418796, issued to  
28 Claudia M. Mills;

